

EXHIBIT B



COPY

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GREGORY MORGENWECK,

Plaintiff,

Index No: 08CV2969 (BSJ) (RLE)

-against-

VISION CAPITAL ADVISORS, LLC,
VISION OPPORTUNITY CAPITAL MANAGEMENT,
LLC, ADAM BENOWITZ AND RANDOLPH COHEN,

Defendants.

VISION CAPITAL ADVISORS, LLC AND VISION
OPPORTUNITY CAPITAL MANAGEMENT, LLC,

Counterclaim Plaintiff,

-against-

GREGORY MORGENWECK,

Counterclaim Defendant.

380 Madison Avenue
New York, New York

December 12, 2008
9:12 A.M.

EXAMINATION BEFORE TRIAL of RANDOLPH
COHEN, the Defendant herein in the
above-captioned action, pursuant to Notice,
held at the above-noted time and place before
Gabrina Lombardo, a Notary Public of the State
of New York.

Jaguar Reporting, Inc.
718 858-7700

A P P E A R A N C E S

LAW OFFICES OF KENT & MCBRIDE, P.C.

Attorney for Plaintiff

1617 JFK Boulevard

Suite 1200

Philadelphia, Pennsylvania 19103

BY: JOHN P. SHEA, ESQ.

BUTZEL LONG, ESQS.

Attorney for Defendants

380 Madison Avenue

22nd Floor

New York, New York 10017

BY: ERIC B. FISHER, ESQ.

FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by
and between the parties hereto, through their
respective counsel, that the certification,
sealing and filing of the within examination
will be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that
all objections, except as to the form of the
question, will be reserved to the time of the
trial;

IT IS FURTHER STIPULATED AND AGREED that
the within examination may be signed before any
Notary Public with the same force and effect as
if signed and sworn to before this Court.

1 R. COHEN

2 R A N D O L P H C O H E N,

3 the Defendant herein, having first been
4 duly sworn by Gabrina Lombardo, a Notary Public
5 of the State of New York, was examined and
6 testified as follows:

7 BY THE REPORTER:

8 Q Would you please state your
9 full name for the record.

10 A Randolph Baer Cohen.

11 Q Would you please state your
12 address for the record.

13 A 1770 Massachusetts Avenue,
14 #607, Cambridge, Massachusetts 02140.

15 EXAMINATION BY

16 MR. SHEA:

17 Q Good morning, Mr. Cohen. I
18 introduced myself a couple minutes ago. My
19 name is John Shea and I represent the
20 plaintiff in this matter, Gregory Morgenweck.
21 I'm going to be asking you questions today
22 regarding some personal background, business
23 background, about Mr. Morgenweck, and about
24 some of your business enterprises. Before I
25 get started I just want to give you some brief

1 R. COHEN

2 instructions. As you see, we have a court
3 reporter taking down everything you say. She
4 has sworn you in. The testimony you give here
5 today has the same effect as if you were in a
6 courtroom. Therefore, it's important that you
7 understand the question I am asking you before
8 you answer it. We don't want you to guess.
9 We want your best answer here today. If at
10 any time you don't understand a question I'm
11 asking you to please just let me know. That's
12 important because once you answer the question
13 it's going to be presumed that you understood
14 the question and answered it to the best of
15 your ability. I don't know how long we're
16 going to be here today. We will definitely be
17 out of here before 3:00. We'll probably take
18 a couple of breaks for whatever reason, but if
19 at any time you need to take a break as long
20 as it's not in the middle of a question please
21 just let your attorney know, let us know and
22 we'll be happy to accommodate you. Are you
23 currently taking any medications which you
24 know to affect your ability to understand or
25 comprehend questions?

1 R. COHEN

2 A No.

3 Q Are you taking any medications
4 which affect your memory at all?

5 A No.

6 Q And your name is Randolph Baer
7 Cohen, correct?

8 A Yes.

9 Q The address which you've given
10 us is 1770 Massachusetts Avenue, number 607,
11 Cambridge, Massachusetts?

12 A Yes.

13 Q Do you maintain more than one
14 place of residence?

15 A Yes.

16 Q What are the other places of
17 residence?

18 A The Massachusetts Avenue
19 address is a box which is where I receive
20 mail, that's why I hesitated. I have a house
21 in Cambridge Massachusetts, and I have an
22 apartment in Manhattan.

23 Q Could you just provide me with
24 a brief history of your educational
25 background?

1 R. COHEN

2 A I went to high school at
3 Germantown Academy in Fort Washington,
4 Pennsylvania, I went to college at Harvard
5 College, and I received a PHD from University
6 of Chicago. I graduated Harvard in 1987 and
7 University of Chicago in 1998.

8 Q What was your degree that you
9 received at Harvard?

10 A Mathematics, AB in mathematics.

11 Q What was your PHD in?

12 A Finance and economics.

13 Q Do you have any other degrees?

14 A No.

15 Q Have you received any honorary
16 degrees?

17 A No.

18 Q What is your current
19 employment?

20 A I'm an associate professor of
21 finance at Harvard Business School, and I also
22 work at Vision Capital Advisors.

23 Q How long have you been an
24 associate professor at Harvard?

25 A Well, I began at Harvard in

1 R. COHEN

2 1998. I believe I was promoted to associate
3 in 2004, but I might be off by a year there.
4 I was an assistant professor when I began and
5 now I'm an associate professor.

6 Q So you were an assistant
7 professor for, approximately, six years?

8 A Correct.

9 Q Do you hold any other positions
10 at Harvard?

11 A No.

12 Q How long have you been at
13 Vision Capital Advisors?

14 A Vision Capital Advisors began I
15 believe in 2005.

16 Q Before 2005 was Vision Capital
17 Advisors known by some other name?

18 A Well, it's slightly confusing.
19 We had a consulting firm which was called
20 Vision Capital. It may in fact been called
21 Vision Capital Advisors. That I believe began
22 in 2003. Later when we created the investment
23 advisor that has the name Vision Capital
24 Advisors we changed the name of the consulting
25 firm to something else, and the consulting

1 R. COHEN

2 firm hasn't really been active recently.

3 Q What name was Vision Capital
4 the consulting firm, what name was that
5 changed to?

6 A I don't recall actually because
7 we hadn't been using that.

8 Q What is Vision Capital
9 Opportunity Fund?

10 A I don't believe that I'm aware
11 of any entity with that name.

12 Q Have you ever heard that name
13 before?

14 A Not exactly, no. Not that
15 name, no.

16 Q Have you heard a name similar
17 to that?

18 A Yes.

19 Q What name?

20 A There's something called the
21 Vision Opportunity Master Fund, and then there
22 are various Vision Opportunity feeder funds.
23 My understanding is that it's proper legally
24 to refer to this collection of master feeder
25 funds as the Vision Opportunity Fund. So I

1 R. COHEN

2 just want to clarify, these names are a little
3 confusing. The Vision Opportunity Fund is a
4 fund that is managed by the investment advisor
5 that's called Vision Capital Advisors now.

6 Q What type of company is Vision
7 Capital Advisors? In other words, is it an
8 LLC, LLP?

9 A LLC.

10 Q And that was incorporated in
11 2005?

12 A To the best of my recollection.
13 And it was incorporated under the name --

14 MR. FISHER: Take your time.

15 And if you can't recall exactly you can
16 indicate.

17 A I had it a minute ago.

18 Q We'll move on and sometimes it
19 will pop up.

20 MR. FISHER: If it comes to you
21 later you can let Mr. Shea know and we
22 can add it to the transcript at that
23 point.

24 Q Do you know what state in which
25 it was incorporated?

1 R. COHEN

2 A I believe it's incorporated in
3 Delaware.

4 Q You just told us that Vision
5 Capital Opportunity Fund was managed by Vision
6 Capital Advisors. Vision Capital Opportunity
7 Fund, is that an LLC, an LLP, do you know?

8 A Vision Opportunity Master Fund
9 I believe is a Cayman Islands Partnership so
10 I'm a little uncertain of legal structure.
11 Maybe LTD, but I'm not sure.

12 Q I just want the record to be
13 clear. When you said before that the Vision
14 Capital Opportunity Fund was managed by Vision
15 Capital Advisors did you mean that Vision
16 Capital Opportunity Master Fund was --

17 A I want to be clear that I'm not
18 aware of any entity called Vision Capital
19 Opportunity Fund.

20 Q Okay.

21 A There's something called Vision
22 Opportunity Master Fund.

23 MR. FISHER: Without the
24 capital.

25 A And then there are feeder funds

1 R. COHEN

2 with other names and collectively I refer to
3 that as, and to my understanding it's proper
4 legally to refer to this collection of funds
5 as the Vision Opportunity Fund. The Vision
6 Opportunity Fund is advised by Vision Capital
7 Advisors, LLC. That's my understanding of the
8 legalities.

9 Q The Vision Opportunity Fund, is
10 that some type of business entity; is that an
11 LLC, an LLP?

12 A It is. Vision Opportunity
13 Fund?

14 Q Yes.

15 A Vision Opportunity Fund is a
16 legal term that references a group of things
17 that are LLCs, and LLPs, and LLTs. There's
18 one legal name so that you don't have to give
19 a list of all the masters and feeders each
20 time you want to refer to this group of
21 entities. Therefore, Vision Opportunity Fund
22 I don't believe is an LLC or an LLP because
23 it's a legal name for a bunch of things that
24 are.

25 MR. FISHER: I believe Mr.

1 R. COHEN

2 Cohen testified that the master fund is
3 a Cayman Islands partnership.

4 THE WITNESS: That's my
5 understanding.

6 Q Do you know when the Vision
7 Opportunity Master Fund came into an
8 existence?

9 A Sure. It should be June of
10 2005 if I recall correctly. By the way, I
11 believe that the original name of the advisor
12 was Vision Opportunity Capital Partners,
13 that's my best recollection.

14 MR. SHEA: Can you read back
15 his answer?

16 (At which time, the requested
17 portion of testimony was read back by
18 the reporter.)

19 Q So the Vision Opportunity
20 Capital Advisors --

21 A Vision Opportunity Capital
22 Partners was the name of the advisor.

23 Q That was the name prior to
24 becoming Vision Capital Advisors?

25 A Right.

1 R. COHEN

2 Q Now, the consulting firm Vision
3 Capital, do you know what type of corporation
4 or what type of business entity that was?

5 A I believe that was an LLC and
6 still is, but with a different name.

7 Q Do you know the legal name?

8 A I don't recall.

9 Q What was the purpose of Vision
10 Capital the consulting firm?

11 A The consulting firm found
12 investors who were interested in investing in
13 companies and helped those investors think
14 through the problem of whether to invest in
15 those companies.

16 Q What's the purpose of Vision
17 Capital Advisors?

18 A Vision Capital Advisors is an
19 advisor to a group of pools of capital that
20 make investments of various kinds in markets.
21 It's a registered investment advisor.

22 Q Is Vision Capital Advisors a
23 hedge fund?

24 A I think that would be a
25 perfectly reasonable characterization. I just

1 R. COHEN

2 want to be careful with the technicalities in
3 that the fund is the pools of capital
4 technically. Vision Capital Advisors is an
5 advisor to those funds. I'm not trying to be
6 difficult. I think Vision Capital Advisors is
7 what is commonly referred to say by a
8 newspaper as a hedge fund. But technically my
9 understanding is Vision Capital Advisors is an
10 advisor and the funds are the pools of
11 capital.

12 Q Would I be correct in stating
13 then that Vision Opportunity Master Fund and
14 all the feeder funds that you had talked about
15 which we are referring to collectively as the
16 Vision Opportunity Fund, is that the hedge
17 fund?

18 A To me that's a hedge fund.

19 Q Did you work for the consulting
20 firm Vision Capital?

21 A Yeah, I was a co-owner and I
22 worked for Vision Capital Advisors the
23 consulting firm.

24 Q Between 2005 and the present
25 have you worked for anyone other than Harvard

1 R. COHEN

2 University or Vision Capital Advisors?

3 A I've been paid to give speeches
4 at a number of conferences and I had a
5 business called Gargoyle Partners which still
6 exists. There hasn't been significant work
7 done for Gargoyle Partners recently, but I
8 believe there was certainly work done in 2005
9 and I think into 2006.

10 Q How often do you give speeches?

11 A I give speeches fairly often.
12 I would say I probably gave a dozen speeches
13 this year, most of which were not compensated.

14 Q Is that about an average amount
15 that you would do annually?

16 A I think so. It might even be
17 somewhat more say between ten and twenty.

18 Q Who are these speeches to
19 generally speaking?

20 A I speak typically either at
21 hedge fund conferences or investment
22 management conferences. Sometimes those
23 conferences are managed by an individual
24 company, and sometimes it is a conference
25 where a conference organizing firm invites

1 R. COHEN

2 people or has people from many different
3 companies come to the conference.

4 Q Are these conferences held at
5 generally one geographical area, all over the
6 country?

7 A No, they're all over.

8 Q Do you talk outside of the
9 U.S.?

10 A Sometimes.

11 Q From 2003 to 2005 you were
12 working for Harvard at that time, correct?

13 A Yes.

14 Q And you were also working, you
15 were co-owner and worked for Vision Capital
16 the consulting firm, correct?

17 A Yes.

18 Q Were you working for anyone
19 else other than giving the speeches which we
20 just talked about?

21 A For Gargoyle Partners.

22 Q When did you begin working for
23 Gargoyle?

24 A I believe that work for
25 Gargoyle began in 2003 probably in the summer

R. COHEN

or fall.

Q What was Gargoyle?

A Gargoyle was a firm created to develop and implement quantitative investment strategies.

Q What's a Quant Arb?

A Quant Arb is a term used to describe investment strategies where historical data on stocks and on the economic environment is processed by computer software and the software then produces forecasts of performance by different stocks and therefore leads to information that can be used to select stocks to buy or sell.

Q Is Quant Arb a type of fund, a type of investment?

A Yeah, I would say it's an approach to investing.

Q Did Gargoyle use a Quant Arb approach?

A Yes.

Q Would you ever have referred to Gargoyle as the Quant Arb?

A Yes.

1 R. COHEN

2 MR. FISHER: I didn't indicate
3 earlier, I don't think we've yet
4 treaded on sensitive or proprietary
5 confidential information, but I'm going
6 to designate the transcript as
7 confidential subject to the protective
8 in order in the case.

9 MR. SHEA: I think it's part of
10 the protective order.

11 MR. FISHER: I think it is, but
12 I think you specifically need to
13 designate it so I just want to be clear
14 for the record.

15 A If I could continue answering
16 the previous question, it's also the case that
17 prior to the formation of Gargoyle I worked on
18 other Quant Arb or quantitative investment
19 strategies and so it's not automatic that if I
20 used the term Quant Arb it was specifically
21 with reference to Gargoyle. It could have
22 referred to either academic research in
23 quantitative strategies or to some previous
24 work, but certainly Gargoyle would be a thing
25 that I might refer to as Quant Arb.

1 R. COHEN

2 Q After 2003 were there other
3 things which you would have worked on that you
4 would have quantified or described as Quant
5 Arb?

6 A Possibly in terms of my
7 academic research. In context it would
8 probably usually be fairly clear whether I was
9 referring to Gargoyle, but there was not
10 another company after 2003 that I would have
11 called Quant Arb other than Gargoyle after mid
12 2003 let's say. In early 2003 I was working
13 on another Quant Arb strategy.

14 Q Prior to 2003 were you working
15 for anyone other than Harvard?

16 A Yes.

17 Q Who was that?

18 A I worked with Vega Asset
19 Management on a quantitative investment
20 strategy.

21 Q Where is Vega Asset Management?

22 A New York. I believe they're
23 headquartered in Madrid, but the office I
24 worked in was in New York.

25 Q What did you do for them?

1 R. COHEN

2 A Together with other people I
3 developed and implemented a quantitative
4 investment strategy.

5 Q Were you an employee, a
6 consultant; what were you designated as?

7 A I believe I was a consultant, I
8 would consult.

9 Q Were you paid a consultant fee?

10 A I believe that there was a
11 small consulting fee and there was also a
12 percentage of profits. There was a contract
13 that I believe specified a percentage of
14 profits. Unfortunately, we never did receive
15 any profit percentage payments. In principle
16 there could have been.

17 MR. FISHER: Off the record.

18 (Whereupon, a discussion was
19 held off the record.)

20 Q Have you ever had your
21 deposition taken before?

22 A No, not to my recollection.

23 Q Why did you not receive a
24 percentage of profits?

25 A The net profits were not

1 R. COHEN

2 positive.

3 Q So there were no net profits?

4 A That's correct.

5 Q You said you had a contract

6 with Vega?

7 A I believe so.

8 Q A written contract?

9 A I believe so, yeah.

10 Q You said you were a founder of

11 Vision Capital the consulting firm?

12 A Yes.

13 Q Who else was a founder of that?

14 A Adam Benowitz.

15 Q What was the split of

16 ownership?

17 A Fifty-fifty.

18 Q Were you to receive

19 compensation for your work with Vision Capital

20 the consulting group?

21 A I was to receive just my

22 partnership share.

23 Q And that was the fifty percent?

24 A Yes.

25 Q Fifty percent of what?

1 R. COHEN

2 A Well, I mean if the partnership
3 had revenue in excess of its expenses then it
4 was my belief that I owned fifty percent of
5 that net money owned by the firm.

6 Q So fifty percent of the net
7 profits?

8 A Sure.

9 Q Did you also receive any type
10 of salary?

11 MR. FISHER: Objection as to
12 form. You can answer.

13 A No.

14 Q Do you know if Adam was to
15 receive salary from Vision Capital the
16 consulting group?

17 A I'm not certain.

18 Q And Vision Capital the
19 consulting group, that began in 2003 we
20 established, correct?

21 A That's what I believe, yes.

22 Q Do you know if there were any
23 net profits in 2003 at Vision Capital
24 Consulting?

25 A I strongly suspect there were

1 R. COHEN

2 not.

3 Q Why do you say you strongly
4 suspect there were not?

5 A My recollection is that in 2003
6 we began looking for opportunities for
7 consulting, but that our first actual sort of
8 successful work with a client was not until
9 January 2004.

10 Q In 2004 was there a net profit
11 from Vision Capital Consulting?

12 A I believe there probably was.

13 Q Do you recall receiving a share
14 of the net profits?

15 A I don't have specific
16 recollection, but it seems probable that I
17 received payments I think in 2004.

18 Q Do you know if Adam Benowitz
19 received a percentage of the net profits?

20 A I would guess that if I did he
21 did. And so I suspect I did and I suspect he
22 did. I'm just uncertain as to when any
23 payments might have been received by that firm
24 and when they would have been paid out, but it
25 would have been my guess that we would have

1 R. COHEN

2 had some in 2004.

3 Q Other than yourself who else
4 would know whether or not you received a
5 percentage share of net income in 2004 that
6 was working at Vision Capital Consulting?

7 A I'm not sure. It's something
8 that presumably records could be checked, but
9 I don't know if there is anyone who would
10 necessarily have that specific recollection.

11 Q Who was in charge of your
12 payroll in 2004?

13 MR. FISHER: Objection as to
14 form. Your payroll you're talking now
15 about Vision Capital the consulting
16 group?

17 MR. SHEA: Yeah.

18 Q In 2003 when Vision Capital the
19 consulting firm was organized, created did you
20 have someone in charge of payroll?

21 A Right. My recollection of
22 which of the people who worked with us started
23 exactly when is uncertain. At some point
24 Jordan Fraser was helping us, and at later
25 points David Berger got involved in the

1 R. COHEN

2 company, but I just don't recall exactly.

3 There was at one point Antti Uusiheimala.

4 Q From here on out through the
5 deposition we'll refer to him as just Antti.

6 When Vision Capital Consulting was created in
7 2003 obviously you and Adam were working for
8 Vision Capital Consulting, correct?

9 A Correct.

10 Q Do you know who else was
11 working in 2003 for Vision Capital Consulting?

12 A As I said, I just don't recall
13 when Jordan started, when David started, and
14 when Antti started. I believe Jordan started
15 first, but I can't recall whether it was in
16 2003 or in 2004. I'm sort of uncertain as to
17 the start dates of each of those people.

18 Q Are those the only three people
19 that you recall ever working for Vision
20 Capital Consulting?

21 A Those are the only ones I
22 recall. It's possible that if you say other
23 names I'll say oh yes, perhaps that person did
24 work for the consulting firm, but those are
25 the ones that I recall.

1 R. COHEN

2 Q How do you know Adam Benowitz?

3 A I met Adam in junior high
4 school.

5 Q In Philadelphia?

6 A Yes, Fort Washington.

7 Q Had you ever worked with Adam
8 prior to creating Vision Capital Consulting?

9 A Yes, Adam worked with me on the
10 project for Vega.

11 Q So that's the first time you
12 worked with Adam?

13 A Yes, I believe so. I'm barring
14 anything we did as kids, a lemonade stand and
15 such.

16 Q When did you begin your work
17 with Vega?

18 A Fall of 2002.

19 Q Prior to 2002 were you working
20 for anyone other than Harvard?

21 A Yes, at different times. It's
22 common for professors to consult.

23 Q What type of consulting would
24 you do?

25 A I consulted for a firm that was

1 R. COHEN

2 an internet company giving advice to investors
3 on managing taxes and transaction costs. I
4 helped devise a quantitative strategy for a
5 firm that never actually launched the strategy
6 because their funding dried up, but I worked
7 and was compensated for developing that
8 quantitative investment strategy. I worked
9 with a firm that did executive training. That
10 firm later just broadened in executive
11 training consulting and I did training for
12 them. Those are probably the most important
13 in that period.

14 Q You began at Harvard in 1998 as
15 an assistant professor. In between 1987 when
16 you graduated from Harvard and 1998 what type
17 of jobs did you have?

18 A Well, I worked as an actuary, a
19 management consultant, from 1989 to 1993.
20 Between '87 and '89 I started a company, it
21 was called Boston Auto Brokers. It was a
22 relatively unsuccessful company. Then in
23 1993, of course, I went to graduate school so
24 I received a stipend from the school and did
25 some tutoring and other odd jobs.

1 R. COHEN

2 Q Then once you received your PHD
3 you went to work at Harvard?

4 A That's right.

5 Q Since 1998 being a professor,
6 whether it be an assistant or associate
7 professor, has been your full-time job?

8 A I would say that's right.

9 Q Currently how many hours do you
10 dedicate to your job at Harvard? Quantify it
11 whatever way you want to.

12 A I teach thirty days a year, and
13 then I spend a fair amount of time on research
14 activities. My academic research obviously is
15 work for Harvard, but it also benefits the
16 business I believe since my academic research
17 is in the area of hedge funds. So it's sort
18 of in a gray area between business work and
19 work for Harvard. I would say the thirty days
20 of teaching are the part that are fairly clear
21 for Harvard. The rest of my time is all
22 activity that benefit the business, but some
23 of them benefit Harvard too.

24 Q What is your current salary at
25 Harvard?

1 R. COHEN

2 A I don't recall exactly, but I
3 would guess it's in the range of \$225,000 a
4 year.

5 Q Has that changed in the last
6 five years?

7 A It goes up a few percent each
8 year.

9 Q In 2003 do you know what your
10 salary was at Harvard?

11 A I would guess it was probably
12 in the neighborhood of \$180,000.

13 Q Was anyone else involved with
14 developing or founding Gargoyle?

15 A Yes, Christopher Polk and I
16 founded Gargoyle.

17 Q Who is Christopher Polk?

18 A Christopher Polk is a professor
19 currently teaching at the London School of
20 Economics. At the time of Gargoyle he was
21 teaching at Northwestern University.

22 Q How did you meet Christopher?

23 A We were in graduate school
24 together at the University of Chicago.

25 Q When you began Gargoyle in 2003

1 R. COHEN

2 other than yourself and Mr. Polk who else was
3 involved with working with Gargoyle?

4 A I would say at the moment of
5 creation it was me and Christopher. Over time
6 we began working with Greg Morgenweck on the
7 information technology aspects of the
8 business.

9 Q Was Adam at all involved with
10 Gargoyle?

11 A Adam was not a partner in
12 Gargoyle.

13 Q Did he have any involvement
14 with Gargoyle?

15 A I would say he helped us to
16 meet people who might help us. The firm that
17 Gargoyle ended up sort of developing a
18 strategy for was run by Steve Bloom, who was
19 Adam's old boss, so Adam was very helpful in
20 making introduction.

21 Q What was the name of that
22 company?

23 A Sagamore Hill Capital
24 Management or Capital Partners.

25 Q Other than being in a conduit

1 R. COHEN

2 to introduce you to people did Adam take any
3 other active role or any active role at all in
4 Gargoyle?

5 A Adam is probably my best friend
6 so he was somebody I talked to frequently
7 about anything and everything in the money
8 management business. So he wasn't an equity
9 owner and he wasn't an employee, but he was
10 somebody who was very helpful to us in a way
11 that would be normal for I think somebody that
12 you're close with and had great respect for
13 them and they had useful connections and
14 knowledge.

15 Q We've talked about Vision
16 Capital Consulting, Vision Capital Advisors,
17 Vision Opportunity Master Fund, Vision
18 Opportunity Fund, Vision Opportunity Capital
19 Partners. Sitting here today --

20 A Can I make a correction?

21 Q Sure.

22 A Vision Opportunity Capital
23 Management is the right name for the original
24 name of the advisor. Vision Opportunity
25 Capital Partners is I think one of the feeder

1 R. COHEN

2 funds. I apologize for the confusion. I now
3 believe that the correct initial name of the
4 registered investment advisor, which now goes
5 by the name of Vision Capital Advisors, the
6 original name was Vision Opportunity Capital
7 Management. I think I mis-spoke earlier. I
8 may have said Vision Opportunity Capital
9 Partners which is a different entity.

10 Q Are you aware of any other
11 entity which we have not discussed which had
12 the name Vision Capital in it or as part of
13 it?

14 A Again, as I said, in addition
15 to the master fund there are feeder funds. We
16 created a fund that invests in China in late
17 2007. That's called Vision Opportunity China
18 Fund Limited. That's all I can think of right
19 now. There was something called Vision
20 Intermediate Master Fund I think that was
21 created in 2006 or 2007, 2007 I think. All of
22 these are part of the group that I call Vision
23 Opportunity Fund except for the China Fund.
24 The China Fund is a separate entity.

25 Q Vision Capital Consulting, and

1 R. COHEN

2 we've been calling it Vision Capital
3 Consulting, you don't know what the legal name
4 of it was?

5 A I think that the legal name
6 back at the time was Vision Capital Advisors,
7 and I don't know the current legal name. When
8 we re-named Vision Opportunity Capital
9 Management Vision Capital Advisors we renamed
10 the consulting firm something else.

11 Q Was Vision Capital Advisors the
12 consulting firm, or was that the firm that
13 came after the consulting firm?

14 A I believe that we used the name
15 Vision Capital Advisors for the consulting
16 firm way back when, but you can see the
17 confusion then because now a different firm
18 has that name. That originally was named
19 Vision Opportunity Capital Management hence it
20 may be useful for us to continue to refer to
21 it as Vision Capital Consulting Firm or
22 something of that nature.

23 Q In any event, whatever the name
24 was that was the first entity that was created
25 back in 2003?

1 R. COHEN

2 A Right. I don't remember the
3 exact date of its legal creation, but that's
4 right. Back in 2003 we started doing
5 consulting business and referring to it as
6 Vision.

7 Q You and Adam co-founded Vision
8 Capital Consulting and you talked about what
9 the purpose of it was. Did you envision that
10 lead into something else?

11 A At the time we just wanted it
12 to grow bigger in terms of the business that
13 we were doing.

14 Q Did the consulting firm lead to
15 the creation of what became Vision Opportunity
16 Capital Management?

17 A There was certainly a
18 relationship there. The strategy of Vision
19 Opportunity Capital Management is somewhat
20 different from what we did in the consulting,
21 but clearly there was a relationship there,
22 yes.

23 Q You gave me the name Jordan
24 Fraser, David Berger, and Antti as people that
25 you recall sitting here today as working for

1 R. COHEN

2 Vision Consulting. I'm not asking for
3 specific names. Do you know the type of
4 people you would have had working that would
5 have been working for Vision Consulting?

6 MR. FISHER: Objection as to
7 form.

8 A Those are the only people that
9 I recall working for us in the consulting
10 period, and I can't even swear that all of
11 them were working prior to the formation of
12 the investment advisor in June 2005. I just
13 don't remember exactly which people started
14 when. So if you said to me that Antti
15 actually started in August of 2005 or whatever
16 then okay, so be it. But if you ask what my
17 best guess is my best guess is that those
18 three people worked for us while we were doing
19 the consulting.

20 Q When you created Vision
21 Consulting do you know if you had any analyst
22 working for you?

23 A Analyst working for us? I
24 don't believe that we had somebody working for
25 us that I would call an analyst. But again,

1 R. COHEN

2 we have analysts working for us now and it's
3 possible that one of them started working for
4 us back during the consulting period and then
5 was later hired by the investment advisor, but
6 I don't recall that. If you're thinking of
7 someone you could remind me and maybe I'll
8 remember.

9 Q When you were looking you said
10 that the purpose of Vision Consulting was to
11 find investors who were interested in
12 investing in companies.

13 A Right.

14 Q What type of companies were you
15 looking to have these people invest in?

16 A Could you clarify what you mean
17 by what type of companies?

18 Q I mean any type of company.
19 When you say you were looking to find
20 investors who were interested in investing in
21 companies, I'm just trying to find out what
22 you meant by companies.

23 A What I mean is companies that
24 are looking to raise money directly into the
25 company. In other words, we were not advising

1 R. COHEN

2 people to go out and buy a stock in the
3 market. What we were doing was discussing
4 with people the possibility of them buying
5 stock directly from a company by investing
6 directly into that company. So certain
7 companies are looking to raise money and they
8 say we need to raise five million dollars to
9 execute our business plan, and we were seeking
10 investors who were interested in making that
11 sort of investment in which you put money
12 directly into the company and get stock.

13 Q When you would meet with these
14 potential investors did you do any type of due
15 diligence?

16 A You mean due diligence on the
17 investors?

18 Q Yes.

19 A Well, I'm not sure what would
20 constitute diligence on investors. An
21 investor is an investor. As a consultant to
22 someone I'm not sure what kind of diligence I
23 would have done. I would receive an
24 introduction so the person who introduced me
25 to the investor I might ask them to tell me

1 R. COHEN

2 what they knew about the investor. Could you
3 be more specific?

4 Q Would you know if Vision
5 Consulting did any type of background check on
6 these potential investors?

7 A I don't recall doing any
8 background checks.

9 Q Do you know if anyone at Vision
10 Consulting would have?

11 A I don't recall anyone at Vision
12 Consulting doing background checks on
13 potential investors. And I don't have in mind
14 anyone who I think that person would have
15 normally done background checks.

16 Q If someone came to you and said
17 I'm interested in investing X amount of money
18 into a company would you have taken them at
19 their word that they were able to make that
20 commitment?

21 A What do you mean by able?

22 Q How would you verify that they
23 had the capability of making the investment?

24 A In other words, because they
25 were the one making the investment not us. If

1 R. COHEN

2 they weren't capable of making the investment
3 they wouldn't make it. If you say to me I
4 want to put \$250,000 into a company and I say
5 okay here's how you would do that and then you
6 don't actually put the money in because you're
7 not capable of doing so then you wouldn't make
8 the investment. We never took the money,
9 that's the key point. We were a consultant.
10 Investors did not send us money to put into
11 companies. Investors directly invested into
12 companies with our advice.

13 Q Who would recommend what
14 companies to invest in? When you gave advice
15 to someone who came to you and you advised
16 them on whether or not to invest in a company
17 who would come up with that company; would it
18 be Vision Consulting?

19 A Generally when the companies
20 that we introduced investors to were
21 identified to individuals named Jim Crombie
22 Joe Gil.

23 Q Who is Jim Crombie and Joe Gil?

24 A Well, Jim is someone that Adam
25 knew. I believe that Jim had worked at a firm

1 R. COHEN

2 and Adam worked at that firm later and they
3 met there. Jim I believe was managing a fund
4 of some sort at the time, but was interested.
5 He felt that he and Joe, Joe was someone Jim
6 knew and Jim felt that he and Joe could
7 identify high quality companies that they
8 could show to investors that we would help
9 find. So we knew some people who had money
10 who were looking for high quality companies to
11 invest in and so if an investor expressed
12 interest in finding out about companies Jim
13 and Joe would find those companies and we
14 would show the companies to the investors and
15 sometimes they would choose to invest.

16 Q Was Jim Crombie an employee of
17 Vision Consulting?

18 A No, I don't believe so. But
19 I'll clarify that when Vision received money
20 Jim would get paid for his efforts as would
21 Joe.

22 Q So was he a consultant then for
23 Vision Consulting?

24 A I think that would be the most
25 accurate characterization that he was

1 R. COHEN

2 consulting.

3 Q How about Joe Gil, was he an
4 employee or was he a consultant?

5 A I would say he's a consultant.
6 I don't recall any employment contracts or
7 anything with either of them. I viewed them
8 as outside consultants.

9 Q Who would do the research on
10 these companies to whom you would introduce
11 investors to?

12 A I would say that when Jim and
13 Joe brought companies they were the ones who
14 were recommending the companies were good.

15 Q Did anyone at Vision Consulting
16 do any research in any of these companies?

17 A Adam and I would certainly read
18 about the companies and give our thoughts on
19 them and we had our opinions on the quality of
20 the companies, sure.

21 Q Do you know if anyone else did
22 any research?

23 A Well, there was a guy named
24 Mike Ross. Mike was not an employee of
25 Vision, but he would look at companies and

1 R. COHEN

2 sometimes invest in them himself. He would
3 express opinions on companies so he was
4 somebody we worked with.

5 Q Was he a consultant?

6 A I'm not sure what the legal
7 definition of a consultant is. My
8 understanding, if I recall correctly our
9 agreement with him was that in return for his
10 giving opinions on the companies he had the
11 opportunity to invest himself. I don't recall
12 paying him a consulting fee so I don't think
13 of him as having been a consultant. But it's
14 certainly the case that we thought he was a
15 skilled analyst and we listened carefully to
16 his advice, and if he thought a company was
17 very good we were more than likely to tell
18 investors about it. Legally I don't know if
19 he was a consultant.

20 Q Are there any other individuals
21 whose services you utilized whether or not
22 they were consultants, employees for Vision
23 Consulting?

24 A Greg Morgenweck did some sort
25 of administrative work, computations of profit

1 R. COHEN

2 loss on positions, pulled prices from a
3 database, things of that nature.

4 Q How would Vision Consulting
5 generate revenue?

6 A If investors made money on
7 their investments they would pay us a fee, a
8 portion of profits that they made.

9 Q Do you know what the percentage
10 was?

11 A There were different
12 percentages for different companies and
13 investors so it depended over time.

14 Q Other than that percentage of
15 profits that they received did Vision
16 Consulting collect any type of maintenance
17 fees?

18 A No.

19 Q Was there any other source of
20 revenue for Vision Consulting?

21 A Not that I recall.

22 Q Would they pay you a consulting
23 fee?

24 A I characterize the payments we
25 received as consulting fees, but we were paid

1 R. COHEN

2 a consulting fee that was a function the
3 successor or lack thereof of the investments
4 they made.

5 Q Your consulting fee, was that
6 based on a profit which they realized, or was
7 it whether it was realized or unrealized?

8 A I believe we were only paid
9 when profits were realized.

10 Q In other words, you would only
11 receive a fee if they withdrew their
12 investment from the company or they sold their
13 interest?

14 A That's my recollection. I mean
15 if anyone wanted to pay us sooner than that
16 I'm sure we would have been happy to take the
17 consulting fee sooner, but I think as a
18 general method people wanted to pay us after
19 they made money.

20 Q Did any of the companies in
21 whom you directed investors to in Vision
22 Consulting, did any of those companies ever
23 become part of Vision Opportunity Capital
24 Management?

25 A Companies that we directed

1 R. COHEN

2 capital to?

3 Q Yes.

4 A I don't believe so, no.

5 Q With your permission I'll refer
6 to Vision Opportunity Capital Management and
7 what is now known as Vision Capital Advisors
8 as the hedge fund; is that okay?

9 A Sure.

10 MR. FISHER: It's not a
11 problem. For the purpose of keeping
12 the transcript as clean as possible
13 does it make more sense for you to
14 refer to Vision Capital Advisors as the
15 advisor or the hedge fund? And I'm
16 asking however you refer to it in your
17 sort of usual way of talking.

18 THE WITNESS: I think that it's
19 useful to use the term hedge fund to
20 refer to the advisor and the funds all
21 together as an entity. And then
22 obviously we can reserve the term the
23 advisor to refer specifically when
24 we're talking about the advisor and not
25 thinking of the funds as well, that

1 R. COHEN

2 total conglomeration.

3 Q What type of hedge fund is this
4 fund?

5 A Our primary strategy is to make
6 direct investments in companies. We're sort
7 of a long term investor in small growing
8 companies. Direct long term investor I guess
9 is what we would summarize it as.

10 Q Any of the companies that are
11 part of the hedge fund, were any of those
12 companies companies which you had referred
13 investors to in Vision Consulting?

14 A Now I understand. When the
15 hedge fund initiated I believe two of the
16 consulting clients made investments in the
17 hedge fund by in kind contributions of
18 securities in companies that we had advised
19 them on during the consulting period.

20 Q So in other words, the
21 investments which they had made as part of
22 Vision Consulting, they took those investments
23 and made them part of, or contributed them to
24 the hedge fund?

25 A Yes.

1 R. COHEN

2 Q And therefore, those companies
3 now became companies that were part of the
4 hedge fund?

5 A Yes.

6 Q Did you continue to direct
7 capital then to those companies?

8 A I don't recall making an
9 additional investment in any of those
10 companies subsequent to those securities being
11 rolled into the hedge fund, but I can't swear
12 that that didn't happen. It's possible if you
13 remind me of a case I'll say yes it did, but
14 my guess is it didn't.

15 Q The hedge fund and Vision
16 Consulting, are they two separate ideas that
17 came up by you and Adam?

18 A The hedge fund is in a closely
19 related business to the business of the
20 consulting firm. They're both in the business
21 of helping small companies get capital and
22 grow. It's just two different approaches to
23 that problem.

24 Q When you and Adam created
25 Vision Consulting did you also envision then

1 R. COHEN

2 creating a hedge fund later on?

3 A When we first created it we
4 thought that the consulting approach was a
5 better approach than a hedge fund, but over
6 time we concluded that we wanted to change the
7 strategy some and that for the new strategy a
8 hedge fund would be a better approach.

9 Q When did you come to that
10 conclusion or decision that a hedge fund would
11 be a better approach?

12 A My recollection is that that
13 happened right near the end of 2004. I think
14 we got in touch with the lawyers in early 2005
15 to speak to them about creation of an
16 advisor-a hedge fund entity.

17 Q Other than you and Adam was
18 anybody else involved with the creation of
19 Vision Consulting?

20 A No.

21 Q Were you and Adam the only ones
22 involved with the decision to create the hedge
23 fund?

24 A Yes.

25 Q When you and Adam first

1 R. COHEN

2 discussed the idea of switching strategies to
3 a hedge fund did you talk about who would be
4 involved with that company?

5 A It's hard to believe we
6 wouldn't have.

7 Q Vision the hedge fund began in
8 June, July, or May of 2005; is that correct?

9 A June 1st, 2005.

10 Q There was obviously work that
11 was done beforehand before actually going
12 online in May of 2005, correct?

13 A Yes.

14 Q Who was involved with that
15 process prior to May of 2005?

16 A I don't really recall. I would
17 guess that Antti was involved, and obviously
18 Adam and I were certainly involved, and
19 perhaps David Berger was involved. Jordan
20 Fraser was sort of a relative administrative
21 person in his responsibilities, but I'm sure
22 he had involvement in carrying out tasks.

23 Q Was Greg Morgenweck anyone that
24 was going to be involved with the hedge fund?

25 A We talked to Greg about his

1 R. COHEN

2 possible involvement, but nothing was ever
3 worked out there.

4 Q What did you talk about his
5 possible involvement?

6 A We discussed with Greg the
7 possibility that he would move to New York and
8 work on IT which he would be sort of head of
9 IT for the hedge fund, but in the end he
10 wasn't interested in moving to New York and we
11 weren't interested in having a head of IT who
12 wasn't in New York, and also other issues. So
13 in the end we weren't able to come to any kind
14 of agreement of that happening.

15 Q So did Greg ever work for the
16 hedge fund?

17 A Maybe you could clarify the
18 question as to what you mean by work for.

19 Q Did Greg ever do anything for
20 the hedge fund?

21 A Yes.

22 Q What did he do?

23 A Greg would pull prices for
24 stocks from a database for let's say a dozen
25 stocks that were owned in the hedge fund

1 R. COHEN

2 portfolio. I guess he would either type them
3 in or have them go into the data and then he
4 would send us a document that showed the value
5 of our positions and give in those prices.

6 Q How often would he do this?

7 A I think there was a sheet that
8 came out most days, and then at the end of the
9 month there was a monthly summary of some
10 sort.

11 Q How about annually?

12 A Well, I guess there was
13 probably an end of year report at the end of
14 2005. I guess it only happened once so I
15 don't know if I would say it was annually.
16 There may have been one year report, or there
17 may have just been a December monthly report
18 that summarized, but I can't remember if there
19 was a separate annual report or if it was just
20 the December end of month report that got you
21 the end of year numbers.

22 Q You threw out the number a
23 dozen for the number of stocks he would look
24 up the prices to. Do you know how many stocks
25 he would have been looking up?

1 R. COHEN

2 A It's my recollection that at
3 the end of 2005 we had something like thirteen
4 positions in the portfolio, but I can't swear
5 if that number sticks in my head from
6 something else.

7 Q I just want to try and clarify
8 something. You said that you talked to Greg
9 about doing work for Vision and that it never
10 materialized, it never came to; is that
11 correct?

12 MR. FISHER: Objection as to
13 form. It mis-characterizes the earlier
14 testimony.

15 A I feel that you're using a
16 confusing terminology work for. For example,
17 if you're an attorney for the firm you're an
18 attorney for and then you came into my office
19 and you picked up a piece of paper off the
20 floor and put it in the trash and then you
21 left and somebody asked me did you ever work
22 for me and I said you never worked for me then
23 you say what about that time he helped you by
24 picking up that piece of paper. So in other
25 words, Greg wasn't an employee of any of the

1 R. COHEN

2 hedge fund, of the consulting firm, of any of
3 those entities. Greg worked with us at
4 Gargoyle. Now, if you then say to me
5 separately did he do some things that helped
6 at Vision the answer is yes. It was our
7 understanding that as part of his work for us
8 at Gargoyle he would do some things that
9 helped Vision, but he did not work for Vision.

10 Q You said that you had
11 approached Greg, you and Adam. Let me ask
12 you, who approached Greg about heading up the
13 IT at the hedge fund?

14 A I'm sure it was Adam. Adam and
15 Greg had a long relationship.

16 Q Did you approach Greg at all
17 about heading up the IT department at the
18 hedge fund?

19 A I mean, I imagine I had
20 conversations with Greg about the possibility
21 of him working for us, but if you're using the
22 word approach I would guess that it was Adam
23 who first approached the subject and that
24 would be a pretty confident guess.

25 Q Did you have communications

1 R. COHEN

2 with Greg about his heading of the IT at the
3 hedge fund?

4 A Yeah, we talked about it.

5 Q Do you remember those
6 conversations that you had with Greg?

7 A Not in any great detail, but I
8 may have some specific recollection. I don't
9 have a lot of detailed recollections, but I
10 definitely recall that we were interested.
11 Greg had done some very good work for Gargoyle
12 and at a certain point the Vision hedge fund
13 was starting to do well and Gargoyle was
14 looking like a less exciting project and so we
15 thought that Greg might be interested in a
16 position at Vision. There was some discussion
17 of that, but it didn't pan out.

18 Q Why didn't it pan out?

19 A I believe the number one reason
20 was Greg's unwillingness to come to New York.
21 But I certainly can't swear that if that had
22 been pulled away that everything else would
23 have worked out because obviously there are
24 issues of compensation and other things that
25 we would have had to think through. It's also

1 R. COHEN

2 important to understand that Vision had quite
3 minimal IT needs. We thought that over time
4 those needs might grow and that having
5 somebody like Greg would be potentially
6 useful. But at the same time at that
7 particular moment, as I said, we only had a
8 small number of positions in the portfolio and
9 we did very, very little trading and so
10 tracking things was not a very significant job
11 and so we just weren't able to work it out.

12 Q Was the issue of compensation,
13 a potential compensation, ever discussed with
14 Greg if he was to work head of the IT
15 department?

16 A It may have been. I can't
17 recall if the conversations got that far.

18 Q Do you know if anyone other
19 than you or Adam discussed with Greg the
20 possibility of heading up the IT department at
21 the hedge fund?

22 A I don't know. I will say that
23 any conversation with anyone other than me or
24 Adam would not have been a meaningful or
25 important conversation because only Adam or I

1 R. COHEN

2 would have had any kind of power to do
3 anything about that. He may have talked to
4 other people, but it wouldn't be relevant.

5 Q You and Adam would have been
6 the only ones who would have been able to make
7 those type of decisions as to who would have
8 been able to work for Vision the hedge fund?

9 A That's true.

10 Q What type of work did Greg do
11 for you at Gargoyle?

12 A The investment strategy of
13 Gargoyle involved taking an extremely large
14 quantity of data on individual stocks for
15 thousands of stocks, dozens or possibly even
16 hundreds of data items for each stock and
17 organizing them in a very, very specific way
18 and then analyzing that data. So Christopher
19 and I had spent many years developing an
20 investment strategy, a quantitative strategy,
21 i.e., computer software that would take data
22 that was properly organized and turn it into a
23 set of forecast as to which stocks you should
24 buy and which stocks to sell. What Greg did
25 was technically a very challenging job of

1 R. COHEN

2 getting that data, verifying it, organizing it
3 in the correct way, and kind of implementing
4 it in our software. So he played a very
5 important role in getting it from a piece of
6 software that gave you the right answers once
7 you had everything setup right to something
8 that actually could produce output day to day
9 and tell you what to buy and sell.

10 Q Were reports generated?

11 A Sure.

12 Q Who generated those reports?

13 A Greg, or Greg's software if you
14 will.

15 Q Was it daily?

16 A Yeah.

17 Q Were there monthly reports as
18 well?

19 A I believe so.

20 Q How about quarterly reports?

21 A I can't swear.

22 Q And annual reports?

23 A I can't swear on that either.

24 Investment strategies tend to think sort of
25 monthly because that's normally when you take

1 R. COHEN

2 investor subscriptions and so forth, but there
3 may have been annual.

4 Q These reports, were they in a
5 form of databases?

6 A It's my understanding that Greg
7 worked with databases and then he would send
8 out reports that were in a, I believe he used
9 something similar to a PDF file. I think it
10 was a different software vendor called
11 Snapshot, but it's similar to a PDF.

12 Q Do you know who created the
13 databases that Greg was using for Gargoyle?

14 A I mean there were a group of us
15 who worked together on the project. There was
16 work that Greg did that I assume was done by
17 Greg. Obviously he was receiving data from
18 Faxet which is a company that provides data.
19 He was working with software that Christopher
20 and I provided. There were people at Sagamore
21 Hill that were putting input into the project,
22 but Greg obviously did a great deal of work
23 there.

24 Q Do you know how many hours a
25 day or a week that Greg would put in working

1 R. COHEN

2 for Gargoyle?

3 A I don't know. I can say that
4 if I had to do that work it would take me a
5 lot of work, but I don't know how long it took
6 Greg because Greg I'm sure has a much better
7 program than I.

8 Q Did you have an IT department
9 at Gargoyle?

10 A You used the phrase IT
11 department several times. Gargoyle was
12 Christopher and I working with Greg. So if
13 you would like to call Greg the IT department
14 I suppose you can and I don't think that would
15 be inaccurate, but it's not like there was a
16 group of people that we thought of as the IT
17 department. It was just Greg.

18 Q I only used IT department
19 because you said you and Adam had talked to
20 Greg about heading up the IT department at the
21 hedge fund.

22 A I don't know if that's exactly
23 what I said. I think I may have said
24 something about heading up IT.

25 Q Okay, heading up IT.

1 R. COHEN

2 A The point is you have
3 information technology in a firm and what we
4 talked to Greg about was being the person who
5 dealt with information and technology at the
6 firm, but that didn't happen.

7 MR. FISHER: Off the record.

8 (Whereupon, a discussion was
9 held off the record.)

10 Q Was Greg considered an employee
11 of Gargoyle?

12 MR. FISHER: Objection to the
13 extent that it calls for legal
14 conclusion, but go ahead and answer.

15 A I'm uncertain. I didn't think
16 of Greg as an employee. He didn't receive a
17 regular paycheck, he didn't have an employee
18 contract so I didn't think of him as an
19 employee as such.

20 Q How would you characterize Greg
21 in terms of his status with Gargoyle?

22 A We had an agreement that he
23 would do the necessary work for Gargoyle and
24 that he would receive ten percent of
25 Gargoyle's profits. And in return for that

1 R. COHEN

2 ten percent of Gargoyle's profits he would do
3 what we need for Gargoyle and also do some
4 administrative tasks for Vision.

5 Q Who came up with the agreement
6 that Greg was going to receive ten percent of
7 the profits at Gargoyle?

8 A Well, I don't know who came up
9 with it, but I would say that discussion
10 mostly came up with conversations between Greg
11 and Adam.

12 Q Were you involved with those
13 conversations at all?

14 A I would say that the main
15 conversations were with Adam. Greg and Adam
16 had a close relationship.

17 Q When did you first meet Greg
18 Morgenweck?

19 A I don't recall exactly. I
20 would guess it was in 2003. I might have met
21 him earlier because he and Adam were working
22 together as early as probably 2000 or
23 something, 1999. So I may have met Greg back
24 then.

25 Q How did it come about that Greg

1 R. COHEN

2 was going to do work for Gargoyle?

3 A At the time that Adam and I
4 were doing the Vega project we talked about
5 the fact that Greg had the kind of skills that
6 would be valuable in a quantitative strategy.
7 It's even possible at that time in 2002 that
8 Adam and Greg may have even had some
9 discussions about the possibility of Greg
10 working with us there, but if they had those
11 discussions nothing came of it. But it was an
12 idea that Adam and I discussed many times in
13 2002. As we ran the Vega project we realized
14 that somebody with better programming skills
15 would be very valuable to that project. So
16 then when we left Vega and I decided to start
17 a new quantitative strategy using some of the
18 same underlying research that had been
19 involved in the Vega strategy, but working
20 with a different partner. It would seem very
21 natural to consider Greg, and Adam and I spoke
22 of the possibility that Greg should be
23 involved in that project.

24 Q So you had met Greg Morgenweck
25 prior to beginning Gargoyle?

1 R. COHEN

2 A I don't recall when I had
3 meetings, when I had phone calls, et cetera,
4 but Greg was somebody that Adam talked about
5 all the time. Adam and I were sort of best
6 friends so I was sort of very aware of Greg
7 for years at the time we started Gargoyle.
8 And so when Christopher and I began looking
9 for the right source of capital to put behind
10 the strategy we knew that it would be a good
11 idea to get somebody like Greg, and we thought
12 that Greg might be that person. I just don't
13 recall exactly when I had conversations with
14 Greg, when Adam had conversations with Greg
15 about him getting involved with Gargoyle, et
16 cetera.

17 Q Do you know if you had ever met
18 Greg Morgenweck prior to the creation of
19 Gargoyle?

20 A I don't even know what date
21 exactly Gargoyle was created. There was a
22 moment in mid '03 when Christopher and I
23 decided that we would pursue a quantitative
24 strategy. In my mind that's the beginning of
25 Gargoyle. I don't know when the

1 R. COHEN

2 administrative process of actually creating
3 the legal entity of Gargoyle Partners was
4 consummated. So if for purposes of this we
5 said the beginning of Gargoyle was the middle
6 of '03, the summer of 2003 the answer is I
7 don't know if I met Greg prior to that. Yeah,
8 I don't know.

9 Q Do you know if you've ever had
10 conversations with Greg Morgenweck prior to
11 your discussing or considering him to be
12 involved with Gargoyle?

13 A As I said, I don't know because
14 it seems quite possible to me that I met Greg
15 in Philadelphia in 2000 or 2001 at some point,
16 but I don't know whether I did.

17 Q When Greg would send these
18 snapshots I think you said on a daily basis
19 for Gargoyle how long were they; were they
20 pages, or how would you quantify them?

21 A I don't remember exactly what
22 was in those files. You can print them and
23 look at them.

24 Q Did you ever look at them?

25 A Yes, but years ago.

1 R. COHEN

2 Q As I understand Gargoyle had
3 essentially one investor, Sagamore Hill?

4 A I don't think that's quite the
5 right way to characterize the relationship,
6 but yes, Sagamore Hill was the sole provider
7 of capital to Gargoyle. In other words,
8 Gargoyle provided an investment strategy which
9 Sagamore Hill implemented and Sagamore Hill
10 paid Gargoyle a consulting fee. And once
11 again, there was a potential profit share that
12 we could have received from Sagamore Hill that
13 potentially could have been extremely large,
14 but in the event was not.

15 Q At some point in time did
16 Sagamore Hill, excuse my terminology, pull out
17 of the strategy?

18 A I would say yes. Sagamore Hill
19 had redemptions from their fund that amounted
20 to an enormously high percentage of their
21 assets for reasons that I feel very confident
22 had absolutely nothing to do with anything
23 that Gargoyle did. Gargoyle was a very, very
24 small part of Sagamore's investment strategy.
25 So Steve Bloom, head of Sagamore Hill, came to

1 R. COHEN

2 us and said almost all of his money had been
3 redeemed and, therefore, we needed to re-think
4 what we were capable of doing in terms of any
5 kind of Gargoyle investing.

6 Q Did anyone ever come in to take
7 the place or take the role of Sagamore Hill?

8 A No.

9 Q Do you know when that was
10 around when Steve Bloom came to you and said
11 that you were going to have to re-think?

12 A Yes, it was right around the
13 time of hurricane Katrina. So I want to say
14 that that would have been in the fall of 2005.
15 I believe that's the right year.

16 Q I think it was August of 2005.

17 A I don't recall when Steve
18 actually had his problems. It could have been
19 October by the time the problems might have
20 been ours, but somewhere between the summer
21 and fall of 2005 is when that occurred.

22 Q When did Sagamore Hill become
23 involved with Gargoyle?

24 A I don't recall exactly.

25 Q Do you know if it was in 2003?

1 R. COHEN

2 A I think it was after 2003, but
3 I don't know. There was a period of time when
4 the plan was conceived to execute Gargoyle in
5 mid 2003, and there was a period of time in
6 which we were seeking the right partners. So
7 I just don't recall when we first spoke to
8 Sagamore and when we finally decided to go
9 forward with Sagamore, but it was probably
10 later.

11 Q Was there anyone prior to
12 Sagamore Hill involved with Gargoyle?

13 A No. We talked to a number of
14 people, but we didn't execute anything.

15 Q The reports say that Greg
16 Morgenweck generated for Gargoyle and the work
17 that he did for Gargoyle. Was that work that
18 became necessary once Sagamore Hill became
19 partnered up with Gargoyle?

20 A No. There was also a lot of
21 work planning prior to actually partnering
22 with Sagamore Hill. So in other words, we
23 talked to Greg. We worked with Greg on
24 pitching to potential partners and on
25 developing, how do I say, on strategy testing,

1 R. COHEN

2 and strategy developing. We needed to make
3 sure that we would be able to implement
4 effectively.

5 Q Was Greg generating daily
6 reports prior to the involvement of Sagamore
7 Hill with Gargoyle?

8 A I don't think there would have
9 been daily reports, but we may have had some
10 reports on sort of what a hypothetical
11 strategy would return. In other words, how
12 would we have done today if somebody had been
13 trading this strategy, but I can't recall.

14 Q As I understand Greg Morgenweck
15 was involved with strategy discussions that
16 you had involving Gargoyle?

17 A Exactly. Greg helped us figure
18 out how we could implement our strategy, how
19 we could get the right data, how our analysis
20 plan could be properly implemented and so
21 forth.

22 Q Was Greg doing any work for
23 Vision Consulting at the same time as working
24 for Gargoyle?

25 A As we've discussed, it was our

1 R. COHEN

2 agreement with Greg that he would work for
3 Gargoyle and then he would provide some
4 administrative services to Vision Consulting
5 as part of that deal.

6 Q And these conversations about
7 the deal, they were between Adam and Greg?

8 A Adam always was the person who
9 negotiated with Greg. Greg has a volatile
10 personality. Adam and he had a relationship
11 and so I allowed Adam to be the person to talk
12 to Greg.

13 Q You say Greg had a volatile
14 personality. What do you mean by that?

15 A I mean he gets very angry
16 sometimes. I don't enjoy dealing with angry
17 people whereas Adam is more comfortable with
18 it.

19 Q How did you reach the
20 conclusion that he gets angry sometimes?

21 A Well, I had been told that in
22 the past and then encountered it talking to
23 Greg sometimes or via mails, he would send
24 angry emails sometimes. Of course, I also met
25 Greg in person on some occasions and had that

1 R. COHEN

2 same experience as well.

3 Q Prior to Adam talking to Greg
4 about his compensation and how he received
5 compensation for his work with Gargoyle had
6 Greg already begun his work for Gargoyle?

7 A I don't think so. I mean it's
8 possible that Greg did some things sort of
9 just to kind of show us what he was capable of
10 before we got involved in a compensation
11 negotiation. That certainly would be common
12 in business that somebody would say let me
13 show you the quality of my services and then
14 you'll see, but you should be willing to
15 compensate me in a substantial way because I'm
16 very good. So it's possible that he did some
17 things before the negotiations got serious,
18 but I don't recall.

19 Q Had you witnessed, as you
20 described, his volatile personality prior to
21 his work at Gargoyle?

22 A I doubt that I had witnessed it
23 prior to his work with Gargoyle, but I had
24 been told of it.

25 Q Who told you?